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agree that research is the key to progress in world law growth as it was and is in science. Let me not mislead, however, I would guess that we spend less than \$2 million per year on legal research, and very little of that on world law, as compared to the \$15 billion spent on science. Full-time legal researchers number perhaps 100 or slightly more, and few of these are working on world law, while scientific researchers number in the thousands.

JUSTINIAN'S 1,000 RESEARCHERS

Not since Justinian's time has any leader of a nation employed 1,000 researchers to write a code of law but he did it and so can we. For having done this for the Roman Empire Justinian's name, like that of all the great lawgivers since Hammurabi, is honored to this day.

Another Justinian who would employ 1,000 law researchers to write a world code of law today would find that much spadework has been done. In fact, the spadework was launched right here in Boston 5 years ago, on Good Friday just before Easter. Here the American Bar Association gathered the presidents and leaders of the State bar associations of the East plus some of the greatest experts on international law to help answer the question "What can law do to help achieve and maintain world peace?"

CARDINAL CUSHING-ERWIN CANHAM

Cardinal Cushing and Erwin Canham, editor of the Christian Science Monitor, made inspirational speeches which reverberated through the news columns and editorial pages of our Nation and abroad. The cardinal said of the meeting that it "may well be the most significant of our time, for it can set the pattern of the future of the world."

He urged among nations "the voluntary acceptance of a rule of law, replacing violence and force," so that men could, "live in a rational order of law governed by universal justice."

Erwin Canham said, "I have no doubt that it is possible this will indeed turn out to be a historic meeting, playing its part, I hope, as a precursor of the mobilization of large national efforts for the study and preparation of the terms of peaceful living under the rule of law. This job is still ahead of us. It is perhaps more urgent than any other job we face in our lives, and let's hope it will be undertaken and carried forward before it is too late."

MARSHALING WORLD'S LEGAL RESOURCES

Let me summarize what has happened since Boston in the American Bar Association's program to marshal the law resources of the world in the service of mankind:

1. Similar conferences of bar presidents and leaders were held in Chicago, San Francisco, Dallas, and Charlotte—all concluding that a rule of law for the world is now attainable if worldwide support could be mobilized.

2. The American Bar Association set out to mobilize support and secured the backing of leaders of the 1 million lawyers in 115 nations.

3. A working paper summarizing the status of existing international law and legal institutions was prepared by experts from throughout the world and put before Continental Conferences of bar presidents and law leaders in San Jose, Costa Rica for the Americas; Lagos, Nigeria, for Africa; Tokyo, Japan, for Asia; and Rome, Italy, for Europe.

4. The continental conferences developed a recommended program for a world conference and a revised working paper which was printed in French, Spanish, and English.

5. Over 1,000 law leaders from 105 nations met in Athens Greece, last July to consider and adopt a program designed to achieve world peace through law—the end result being the creation of the World Peace Through Law Center to carry out a plan or blueprint

designed to develop a world legal system with 95 committees to implement it. New and strengthened law rules on every subject of transnational interests are to be developed into a world law code and a world court system with trial courts, intermediate appellate courts and final appeals to the World Court at The Hague as key recommendations.

6. Chief Justice Warren and the president of the American Bar Association headed our representatives in Athens and men of like distinction came from other nations. It was the first truly world gathering of the legal profession and its far-ranging historic accomplishments have caused and will cause world law developments of great significance.

7. The world center is now in operation actively carrying out the Athens program. Its influence will undoubtedly grow as its work receives worldwide recognition and acceptance. The Athens documents have been reprinted in many languages throughout the world.

POPE JOHN

Looking back over these 5 years of the American Bar Association's intensive effort to organize the world's lawyers into an effective instrument capable of accelerating world law growth many highlights stand out. I mention only one: Pope John in receiving the delegates in Rome linked law, moral and religious principle, and the brotherhood of man in an inspirational way none of us will ever forget. The support the conferences received from heads of state was likewise inspiring. A total of 89 such messages were received from President Kennedy, Chancellor Adenauer, Prime Ministers MacMillan of England, Balawa of Nigeria, Ikeda of Japan, Nehru of India, and many others. In fact, President Kennedy's interest was so great he sent messages to all four continental conferences and the world conference, and in a conversation I had with him just before going to Athens he urged that we lawyers not let the impetus achieved ever slacken as he had great hopes for concrete results due to the leading part lawyers play in public affairs of most nations. As a personal note, it seems unreal to think of that June day and the President so vitally alive to the world's problems in my current activity before the Warren Commission investigating his assassination.

Perhaps the most quoted phrase at all the conferences was from President Kennedy's inaugural address calling for: "a new world of law where the strong are just and the weak secure and the peace preserved forever."

A WORLD LEGAL ORDER

Such a vast undertaking as building a world legal order is difficult to capsule or chronicle in a few words. But I have touched upon a few highlights as evidence that the idea of world peace through law is on the march throughout the world. I would hope that even you expert planners will agree that the groundwork has been laid for great progress. Louis Brownlow once said "Without sound advance planning one seldom blunders through to great achievement." You know that the best plan is worthless without interested, informed and trained men to execute it. Above all, execution requires dedicated leadership. I believe our planning is sound and hope for great achievement as we have interested, informed and dedicated leaders of the bar in 115 nations who are pledged to carry out this program.

You can appreciate that if some great world leader would emulate Justinian and put 1,000 of the world's best legal researchers to work on a world code of law how welcome such a dramatic announcement would be to the peoples of the world, especially those lawyers in 115 nations now resigned to years of patient labor to accomplish what such a big push to bury war under law could accomplish in a short time. And do not say that such a development is impossible or

wasteful daydreaming. As one piece of evidence that it is not, and as further proof of the ever growing tide of support which this program is receiving, I cite the fact that 10 days ago one lawyer personally gave the new Center \$100,000 to build a headquarters building at The Hague or such other place as is selected.

LUCE AND POLITICAL LEADERS

Henry R. Luce, editor of Time-Life, in addressing the world conference in Athens pointed out that political leaders are bound to awaken sooner or later to the tremendous worldwide appeal of the idea of a world ruled by law and make it a platform for worldwide support. He said:

"In recent years it has become quite usual for politicians—or let us say, for statesmen—to use the word 'law' in their public speeches. This conference has received congratulations from scores of leading statesmen. But up till now, so far as I know, no President or Prime Minister has put the rule of law at the top of his political banner. No President or Prime Minister has made the rule of law the chief aim of his policy. Neither have any junior politicians done so, so far as I can recall.

"This is an extraordinary fact—and yet wholly understandable for many reasons. For one thing—and I do not mean to be cynical—politicians have not thought that 'the rule of law' would be a vote-getting proposition.

"But now, I think, the time has come when, here and there, and more and more, able politicians will see the good sense in adopting the advancement of the rule of law as a major theme of their foreign policy. The rule of law can become good politics.

"So, that is the matter of substance which it is in my heart to say to you today. Lay your plans well for a continuing organization—an Institute of World Law or whatever you may decide. And then both through that organization and as individuals, confront the politicians of every land with your proposition. The time has come for this decisive effort in world affairs."

I sincerely believe that if the President does not recognize and grasp the potential of the rule of law as a foreign policy some other world leader will. The leader who becomes the "law man" of the world will go down in history as the greatest of all leaders.

RULE OF LAW NOT UTOPIA

A world ruled by law would have room for diversity of national policies, for protection of the self-interest—the vital interests—of nations. Such diversity exists under our national rule of law and a world legal order to prevent war by controlling conflict would perform in the same way. A rule of law internationally is not a cure-all. As stressed previously, conflict and lawbreakers would still exist under such a rule. This is true in England which prides itself on its rule of law, yet I have seen a mob in London's Trafalgar Square and read of Christine Keeler and crime in Soho. We too have mobs and scandal and crime under our rule of law. But as Winston Churchill once said, "With all its defects our rule of law is still the best system yet conceived by the mind of man." And so with all its defects would be a world rule of law.

RUSSIAN LAWYERS

You may say what of the Russians. So before closing let me give you my estimate based on meetings with Russian lawyers both inside and outside of the Iron Curtain. Russian lawyers are in many respects as able and knowledgeable as American lawyers except for one basic handicap: fear. I have

²I strongly feel that Communist power must be matched always with a power margin of our own—the rule of law would not prevent that.

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no doubt but that if they had their choice between living in freedom or in fear they would choose freedom but now fear is their constant companion. Russian lawyers are afraid to say what they think. They are fearful to express agreement with their colleagues of other nations obviously because reprisals await if such agreements do not jibe with Communist ideology or dialog aimed at dominating the world. Until this fear is overcome progress in getting Russia to accept world law rules and legal institutions will be slow. They claim that because Russia adheres to such universally respected law rules as the Law of the Sea, the Law of Diplomatic Immunity, and the Postal Convention² this proves their willingness to abide by the rule of law. Yet self-interest and worldwide public opinion back of these law rules indicate why Russia goes along and really force her to go along. When one seeks to add to these universally accepted law rules such subjects as space, trade, or travel they balk. Self-interest and world opinion are not yet strong enough to force their acceptance by the Russians but it may soon be that strong.

Proof of the effect on Russians of public opinion pressure is found in the appearance of Russian lawyers before the World Court to argue against assessment of Congo costs against their country. They lost and so far they have not paid that judgment. I predict they will pay. They lose their U.N. membership if they do not pay, and self-interest dictates they must not lose that membership. Incidentally, they like to twit us about our unfortunate Connally reservation limiting our acceptance of the World Court and say they are on the same basis as the United States. They accept or reject the Court's jurisdiction case by case. This is a shameful situation and we should rid ourselves of Connally.

CONCLUSION

In conclusion, let me say that a broad and diverse area like foreign policy can rarely be wrapped up in a cliché or a phrase. But capsuling a policy into a familiar phrase is most helpful in these days when leaders of nations must aim for support in the minds of men throughout the world. A foreign policy expressed as the rule of law is a most readily comprehensible foreign policy among most of the world's people. They recognize it as a simple yet meaningful plan accommodating their diverse interests within the rule of right reason. It encompasses the best idea yet conceived by the mind of man for peaceful relations among men and nations. It does not attempt utopia but merely to prevent and control, or peacefully decide, conflict among men and nations. It embodies broad principles to which all right thinking men adhere. The world is surely but slowly moving toward such a rule. A plan for a world ruled by law is not beyond the capacity of those to whom it is addressed: the people of the world. While a world ruled by law has been dreamed of for centuries the dangers, capacities and one world aspects of today give us a better chance to accomplish this goal than our predecessors. My plea to you is that you help speed the day of its attainment so it will arrive before atomic incineration is our lot. The day on which a world rule of law prevails will be the day that any man can travel anywhere on the face of the earth, or in endless space, in freedom, in dignity, and in peace.

Mr. MORSE. I think it is particularly apropos that this speech be read by all Members of Congress, in view of the fact

that our Government is bound and determined to engage in aggressive warfare in southeast Asia. I suggest that the speech by Mr. Rhyné be read as a sort of check on those in our Government bent on warmaking at this critical hour.

EDITORIAL COMMENT ON INVESTIGATION OF ROBERT G. BAKER, BY COMMITTEE ON RULES AND ADMINISTRATION

Mr. MORSE. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point an editorial from the Washington Daily News entitled "Some of Their Own Medicine," being a comment on the investigation of Robert G. Baker, by the Committee on Rules and Administration.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOME OF THEIR OWN MEDICINE

The three reform measures suggested as result of the Bobby Baker investigation have merit—one of them in particular.

Lennox P. McLendon, special counsel for the Senate Rules Committee, says Senators, officers, and employees of the Senate should be prohibited from associating "with persons and organizations outside the Senate who are engaged in conducting business with the Government."

We agree such associations may be open to suspicion, but such a prohibition would be pretty hard, if not impossible, to enforce.

He also urges Senators be required to respond to requests for testimony from any Senate committee. Why should Senators exempt themselves from obligations they impose freely on other citizens?

But Mr. McLendon's key proposal, made many times before and as often ignored, is that Senators, officers, and employees of the Senate make full disclosure of outside income and business interests.

A number of Senators have made such disclosures with FRANK CHURCH, of Idaho, the latest to add his name to the list. Others should come forward voluntarily. If they continue to hold back, the good name of the Senate requires a rulemaking disclosure binding on all.

There is nothing wrong with Senators owning corporation stock, having private law practice, etc., but their constituents should be informed as to its nature, enabling them to judge possible motives for action on legislation.

The Senators reserve the right to require this kind of strict accounting from top appointees in the executive departments of government, even requiring some to divest themselves of specific stock holdings. It is time they marched up like men and took some of their own medicine.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on

Equal Employment Opportunity, and for other purposes.

Mr. DOUGLAS. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield, provided I do not lose the floor.

Mr. DOUGLAS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER (Mr. INOUYE in the chair). The question is on agreeing to the amendments (No. 577) proposed by the Senator from Louisiana [Mr. LONG] to the amendments (No. 513) proposed by the Senator from Georgia [Mr. TALMADGE], for himself and other Senators, relating to jury trials in criminal contempt cases.

Mr. DOUGLAS. Mr. President, in view of the fact that this is the 60th day of debate and there seems to be no prospect that our southern friends will terminate their discussion, I ask unanimous consent that following the conclusion of the morning hour tomorrow and after 2 hours of debate, the Senate proceed to vote on the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. FULBRIGHT. I object.

Mr. ERVIN. I object.

Mr. DOUGLAS. I am deeply pained by the objection of our friend from Arkansas and our friend from North Carolina. There have been 60 days of debate. It is time for the Senate to get down to business. The jury trial amendment is merely a foothill in the discussion. I hope very much that our southern friends will not continue to tie up the business of the Senate and the country.

McNAMARA'S WAR IN SOUTH VIETNAM

Mr. MORSE. Mr. President, I wish to speak about McNamara's war in South Vietnam. It is regrettable that the United States has allowed itself to be put in the position of being haled before the Security Council of the United Nations for its actions in southeast Asia. For weeks, I have warned the Senate that inevitably McNamara's war in South Vietnam was bound to be cause for complaint in the United Nations. It is unfortunate that we have followed a course of action in southeast Asia that has laid the basis for the complaint in the United Nations. But once there—and we are now there—we should seek to bring the United Nations peacekeeping mission into the area to replace U.S. military forces in South Vietnam. This is the case that Ambassador Stevenson should make before the Security Council. It is the only case that is consistent with the United Nations Charter and with long-range American interests.

I repeat my deep conviction that the United States is acting outside the framework of the United Nations in South Vietnam. We are in violation of the United Nations Charter in South Vietnam. We ought to take advantage, at least, of the hearing before the Security Council to change our course and see if we cannot obtain support from within the United Nations to send into South Vietnam a United Nations peacekeeping

²Positive proof of the value of operation under law is found in the fact that transnational relations operate smoothly with a minimum of conflict in these three areas among all nations. All we need do is multiply them a thousandfold.

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force to bring to an end the killing, rather than to continue America's course of action of killing in South Vietnam. I speak not only of American boys—and I shall have more to say about them momentarily—but I speak of the killing of thousands of Vietnamese, as well, for they, too, are human beings.

What fills me with utter astonishment is that my Government is advocating killing in South Vietnam instead of stopping a war. We are advocating making war rather than promoting peace. If anyone believes that the course of action the United States is taking and proposing in South Vietnam will result in peace, he could not be more wrong, for the course of action by the United States in South Vietnam will result in more war, more killing, and more violation of the alleged idealism of my country.

I am aghast, too, to think that on the House side, after listening to McNamara, Rusk and the others who are advocating more war in South Vietnam, voices apparently were not raised, suggesting that the United States keep faith with her obligations under the United Nations Charter. The sad fact is that today the United States, more than any other government in the world, is undermining, weakening, and threatening the survival of the United Nations. The United States, by its course of action in South Vietnam, is putting Khrushchev in such a position that when we move in against him in the future with a complaint before the United Nations as I fully expect we shall, after he proceeds to violate the United Nations Charter, he will say, "See who is talking"; and the rest of the world will laugh at us.

Why we have placed ourselves in this indefensible position, I am at a loss to understand. Why we have performed a great disservice to great leaders of this government of the recent past, leaders who did so much to bring into existence the United Nations Charter, I am at a loss to understand.

At one time the United States pledged itself to seek to preserve the peace; yet tonight the United States is conducting an illegal war in South Vietnam. It is a war clearly outside the United Nations. The United States is acting clearly as an aggressor nation, clearly in violation of the Geneva Accords. Yet the United States is trying to alibi and rationalize its outlawry in South Vietnam.

Mr. President, a subterfuge is being carried on by my Government in regard to South Vietnam. The executive branch of the Government, conducting McNamara's war, is trying by indirection to obtain congressional approval of our illegal, unilateral military action in South Vietnam without coming forward with a request for a declaration of war. I fear that many Members of Congress will be sucked in. Apparently there are some who think it is good politics in these critical hours to wave the flag into tatters and thereby pay disrespect to the flag.

What Congress ought to be demanding of the President in answer to his proposal that Congress appropriate more money and send more boys to their

death in South Vietnam is: "Mr. President, when are you going to send to Congress a proposed declaration of war?" Every Member of Congress who votes for the request by the President will, in my judgment, violate his oath to uphold the Constitution. In my judgment, no Member of Congress has the right, under the Constitution, to vote funds to send boys to their death in South Vietnam in the absence of a declaration of war. Senators can vote the appropriation requested by the President—and it is an unconstitutional request because of the purpose for which the money will be used—but the issue will not be ended by that vote. I predict today that in the months ahead millions of Americans will begin to ask, as the French finally asked the question, "For what purpose is all the killing?"

I say to the American people from my desk in the Senate this afternoon: "Remember that the request of the President is a request that will lead to the killing of more and more American boys in South Vietnam. It is a proposal by the President to kill American boys in a war that the United States is conducting, and which has never been officially declared. It is a war that the United States is conducting by directing a puppet government to do its bidding. The United States, and not the military puppet tyrant we are supporting in South Vietnam, is in control in South Vietnam."

McNamara's war in South Vietnam is a U.S. program, outside the United Nations, in violation of the Geneva Accords. American boys in increasing numbers are going to be sacrificed in the shocking unilateral military action being conducted by the United States in southeast Asia.

Mr. President, this afternoon, from my desk in the Senate, I tell the American people that I have no doubt whatever that plans are incubating for escalating this war beyond the borders of South Vietnam. Escalation of this war beyond the borders of South Vietnam means outright aggression by the United States.

No one hates the Communist regime of North Vietnam more than does the senior Senator from Oregon; no one hates Red China more than does the senior Senator from Oregon; no one hates Red Russia more than does the senior Senator from Oregon. But, Mr. President, I do not propose to forget the international law I know, either. Therefore, so long as there is any chance of stopping my Government from following such an illegal course of action as the one my Government is following in South Vietnam, I do not propose to stop doing everything I can to try to get my Government back within the framework of international law. I shall try to get my Government to seek to follow the peaceful procedures of applying the rule of law, instead of the rule of American military might, in South Vietnam.

That is why I shall continue to say over and over again that we should reverse our course; we should ask the United Nations to take jurisdiction. We should put Russia on the spot, by seeing whether Russia will veto, in the Security Council, a proposal to have the

United Nations send a peacekeeping corps into South Vietnam, a proposal which I would urgently ask Congress to support.

That is what the charge by Cambodia before the Security Council gives us an opportunity to do, for Cambodia has placed this matter before the Security Council and, in my judgment, has put us in a bad light, too. I have already referred to letters coming from servicemen in South Vietnam, who have pointed out that they have gone over the borders of South Vietnam. Of course, we know of one incident in which our forces were caught. The State Department and the Defense Department are still trying to alibi it, and the administration is still trying to alibi it, by saying it was all a mistake. But suppose our forces had not been caught invading Cambodia. Would an apology have been sent from the United States to Cambodia? We may be sure none would have been sent. That apology or confession went from the United States only for the reason that the American plane was shot down after it had dropped an inhumane fire bomb, had killed 16 Cambodians, and had burned a Cambodian village. The American pilot was killed as a result of the plane's being shot down. In that instance, we were caught "dead to rights" as an outlaw nation carrying on an aggressive course of action against Cambodia. Therefore, we sent an apology and offered to pay. But, Mr. President, American dollars do not erase violations of moral obligations, nor do they erase violations of international law.

What a bloody chapter of outlawry the United States is writing in its history, in connection with its course of action in South Vietnam.

At the present time, those of us who dare speak out against our Government's policy are being attacked; and I am even called a traitor by the little military puppet-dictator-pipsqueak in South Vietnam called General Khanh. What a disgrace to the history of the United States it is that we have ever given any support to such a person. We even read statements—from the executive branch of our Government—to the effect that our action in South Vietnam is for freedom. Whose freedom, what freedom, and freedom where, Mr. President? There is none in South Vietnam. Read what our correspondents are sending back from South Vietnam. Read what our news analysts are writing and saying about the corruption that exists in South Vietnam. Moore's article in the U.S. News & World Report points out that when one of the officers of the South Vietnam Army attains a high rank, one place where he will not be found is at the battlefield. Mr. President, what do Senators think would happen to the shakedown artists who compose the high military personnel of the South Vietnam Army if the United States stopped paying them the gravy they are collecting by way of the mercenary pay the United States is sending there? I never thought the hour would come when my government would participate in such an ugly practice as the one in which it is

participating now in South Vietnam—by which it is betraying our ideals of the past.

Mr. President, America's military might is no substitute for right.

No matter how powerful we are at the present time, we had better reread our history; we had better recognize that in generations gone by, other nations that substituted military might for right fell; and so will we fall if we continue to follow this course of action.

Mr. President, I am greatly concerned about the effect of America's course of action in South Vietnam on the future of the United Nations. I am very much concerned for the United Nations if we do not quickly retrace our steps.

Once again—as I have done so many times in recent weeks, here on the floor of the Senate—I reject the argument that we must go through with our course there, in order to save face. Save whose face? Since when has there developed in the United States a psychology that our “face” is important when we are wrong? The most handsome “face” we can show the world is an honest face, a face in which we reflect the image of national honesty. We should recognize and admit that we are making a great mistake in South Vietnam. We should ask the United Nations—now that we have been called before it as a defendant—to proceed to take jurisdiction over the war in South Vietnam.

Unless Ambassador Stevenson asks the United Nations to take jurisdiction, we shall find ourselves dragged into war not only in South Vietnam, but in Laos, North Vietnam and Thailand, too. Such an involvement would cause untold American casualties. It could end only in withdrawal. For 8 years France fought in the territory that now comprises South Vietnam, North Vietnam, Laos, and Cambodia. She suffered some 240,000 casualties and spent more than \$5 billion. She still had to withdraw. The American taxpayer, through the American Government, poured more than \$1.25 billion into France's war in Indochina. Counting that \$1.25 billion, the United States has already spent in South Vietnam \$5.5 billion of the American taxpayers' money, not including the cost of maintaining our own forces and our own operations in South Vietnam.

Mr. President, the danger is that we shall be bogged down in South Vietnam for the next quarter of a century—if we avoid a third world war. But I speak solemnly when I say tonight that in my judgment the greatest threat to the starting of a third world war is the United States. The greatest threat to peace with the resulting possibility of bringing about a third world war in the world tonight is the United States. I make that statement because this illegal and unilateral course of action of the United States in South Vietnam could lead to a third world war. The cause-to-effect chain would go directly to the United States. If we go into North Vietnam, if we escalate the war into North Vietnam, we may start a nuclear war.

Turn on the television. Listen to the warmongers. They are in both parties, Republican and Democratic. The Re-

publicans and Democrats seem to be vying with each other to see who can advocate war faster. Republicans and Democrats, to their shame, are advocating hot pursuit. They are advocating going into North Vietnam. They are advocating going into Laos. Those two countries happen to be sovereign powers. I do not like them, but they happen to have the same sovereign rights in international law as does the United States. That happens to go for Cuba, today, in spite of a great deal of warmongering that has been going on today about Cuba. It still happens to be true under international law that Cuba has the same international law rights and sovereign rights as does the United States.

But once we become drunk on the liquor of warmongering, we tend to think that American military might can solve the problems of the world. The great danger tonight is that American military might may throw the world into world war III. I believe we are whistling in the graveyard if we think we can invade North Vietnam and Laos, and that Red China would then send us a message of congratulations, or that Khrushchev would get on the “hot line” between Moscow and the White House and say to the President, “Bravo. Go to it. I am all for it.” He may get on the hot line, but that will not be his message.

Now is the time for some sober thinking. Now is the time for some reconsideration. Now is the time for reappraisal. Now is the time for a rededication to our ideals. Now is the time for us to reverse our policy and pledge to the world anew that we are going to live up to our signature on the United Nations charter, which we are violating at this hour. If we do not, we shall commit the same folly that France committed. An expansion of the war into the same area and an expansion of casualties into the thousands would bring no more victory to the United States than it did to France.

Let the Americans who are now advocating a bigger war effort in Asia remember that Ambassador Stevenson has a great opportunity to put the United States behind the United Nations Charter by asking the Security Council or the General Assembly to put a peace-keeping United Nations force into Vietnam to keep the warring factions apart. That is the only way in which the war there can be confined and contained. Any other course of action would mean expansion of the war and ultimate disaster to the United States.

Next, I wish to make a suggestion to the President of the United States. Several days ago the President commented about a possible revision of the draft law. I have a suggestion for an immediate revision of the draft law. I say to him, “In view of the fact that you are conducting an illegal war in South Vietnam, and in view of the fact that you are asking for more money and more equipment with which to send more American boys to their death in South Vietnam, I suggest that you bring back all draftees at once and that you call for volunteers—a corps that wants to go over and participate in an illegal

war. But, Mr. President, bring back the boys that you have sent over there by compulsion. Bring back the boys that had nothing to say about going into South Vietnam to die in a war that we should not be fighting. Mr. President, you have no moral or legal right to kill them. Let us be brutally frank about this. You will have to assume the responsibility for their killing because you, Mr. President, are ordering them to their deaths. So I make a suggestion tonight, Mr. President, that you announce to the American people forthwith that every boy that was drafted and sent into South Vietnam will have an opportunity to come home. I do not want them to be put in an embarrassing position. I want them brought home; and once brought home, if they wish to volunteer to participate in an illegal war in South Vietnam, they should be permitted to enlist.”

I say from the floor of the Senate tonight that in my judgment sending American boys into South Vietnam under the American draft law is improper and unjustifiable, and it ought to stop. These boys ought to be brought back; and McNamara, Rusk, the President, and the warmongers in the Congress who may wish to support this illegality ought to have to rely on enlistees who are willing to go over and fight in the jungles of South Vietnam.

I know that that is a tough suggestion, but this is no time to run away from the issue. I am hoping that the American people will take note of what is involved in the illegal war of the United States in South Vietnam and the great danger that is building up, not only for the future of this Republic, but also the great danger that is building up for the future of the United Nations. If the United States is allowed to get by with this one, we shall not be able to stop Khrushchev, Red China, Nasser, or any other tyrant in the world who wants to ignore the obligations of the United Nations, from getting by with it either.

Last, I want the American people to know that this country is acting unilaterally in South Vietnam. Our alleged allies have walked out on us. Our SEATO allies have wailed. There are no Australian, New Zealand, Philippine, Pakistani, Thai, French, or British soldiers dying in the jungles of South Vietnam—only Vietnamese soldiers and American soldiers.

I say to the American people, watch out for the semantics of this administration, for the officials in the administration are coining interesting word generalities about token support from the Australians, token support from the Philippines, and so forth. But none of their boys are on the battlefield, and the support is truly token. It does not amount to a tinker's worth. This is a U.S. war, being conducted behind the facade of a U.S. puppet government, in clear violation of the Geneva accord. In fact, this country is audacious in suggesting that we have a justification for being in South Vietnam, because we assert the Geneva accords are being violated. If they are being violated, it is not for U.S. determination; it is for United

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Nations determination. The United States stands convicted of conducting a unilateral war in South Vietnam on the allegation that we are in there because the Geneva accords have been violated. This country has never laid a complaint before the United Nations. That also puts us in an indefensible position.

The U.S. Ambassador to the United Nations ought to have been doing something about it for some time past. I happen to think the Secretary General of the United Nations ought to have been doing something about it for some time past. That is why I put in the Record, the day before yesterday, the letters I addressed to Ambassador Stevenson and to the Secretary General of the United Nations, under date of May 14, asking in those letters what their position is.

I say to the Secretary General, we have a situation that is worsening in the United Nations. You have a solemn obligation to review the position of the United States with regard to South Vietnam and hold the United States to a United Nations accounting for an obviously illegal course of action under the United Nations Charter.

Mr. President, I ask unanimous consent to have printed in the Record at this point a letter I received from Mr. George J. Clauss, of Portland, Oreg., supporting the position I have taken in my opposition to the unilateral military action of the United States in South Vietnam. It is typical of hundreds of letters I have received.

There being no objection, the letter was ordered to be printed in the Record, as follows:

PORTLAND, OREG.,
May 13, 1964.

Senator WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: You have, I am convinced, never been more right than in your May 6, 1964, report to your constituents as to our country's policy in South Vietnam. I feel that it is a strong, clear, accurate, and statesmanlike position. It is an historic and creative statement for which you have significant support in the Senate and in the Nation. But blind reactionary religious and military forces of the country, loud and influential, have a stranglehold on our policies so much so that confusion and apathy prevail. Time will prove that you were right. Acceptance of your suggestions would spare our country additional loss of American lives to say nothing of Vietnamese, vast additional expenditure worse than wasted and humiliation and loss of prestige abroad.

Sincerely yours,

GEORGE J. CLAUSS.

P.S.—Please send 20 additional copies of Senator Morse's report of May 6, 1964.

Mr. MORSE. Mr. President, I repeat that my mail from across this country is running better than 9 to 1 in opposition to the U.S. course of conduct in South Vietnam in connection with McNamara's war. The mail from our boys in South Vietnam is voluminous. Likewise, it is running better than 9 to 1 in criticism and opposition to America's policies in South Vietnam.

Mr. President, these are the boys who, in order that we may be safe, are facing death over there day in and day out.

They should be brought home, and the warmongers should volunteer to go over there. Let them go over there and do the fighting in South Vietnam, but bring back home the boys we have forced to go over there. In my judgment, the spirit, intent, and morality of the Selective Service Act is violated by drafting men and sending them to a battleline in the absence of a declaration of war.

When the proposal of the President to enlarge congressional appropriations for the South Vietnam war, in order to send more equipment to South Vietnam to fight that war, comes before the Foreign Relations Committee of the Senate, I shall fight it. When it comes to the floor of the Senate, I shall fight it. This is an issue which the American people must be called upon to face, for once they get the facts to decide, I am satisfied they will oppose this war. In fact on the basis of what they already know they are opposed to it.

As I said the other day, I do not "buy" the shocking argument of political expediency, the argument that we should wait until after the election. To the contrary, it is so important that the American people should decide it before the election, and, if necessary at the election.

Mr. President, I yield the floor.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. FULBRIGHT. Mr. President, Mr. Justice Black in his succinct and, I believe, very proper dissent from the opinion of the Supreme Court in the case of United States against Ross R. Barnett, et al., concluded with these words:

It is high time in my judgment to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury. It will be a fine day for the constitutional liberty of individuals in this country when that at last is done.

This admonishment should be heeded by the Senate in considering the addition of a jury trial amendment to the pending bill. The Senate should recognize that Mr. Justice Black did not exempt from his broad indictment of the practice of courts in summarily punishing those believed in contempt of its orders instances where judges impose a penalty of less than 30 days' incarceration or \$300 fine. His indictment of this practice and his advocacy of a constitutional interpretation prohibiting this potential for judicial tyranny is plenary and it should be sanctioned by the Senate in the adoption

of the Talmadge amendment to H.R. 7152.

The right of trial by jury was recognized by our ancestors only after centuries of struggle against the arbitrary practices of the Crown. The guarantee of judgment by one's peers in criminal cases is among the finest of the traditions inherited by the Colonies and subsequently by the citizenry of the United States of America. This fundamental protection of individual liberty was viewed by the Founding Fathers of our Nation as basic to democratic and constitutional government. In its absence no man is safe from the potential of authoritarian practices on the part of judges, prosecutors, and police, jointly and severally.

The right of trial by jury is traditionally one of the first civil liberties suspended by governments bent on totalitarianism. Jury trials are not quick, neat affairs. They are cumbersome and, on occasion, arduous, but our historical experience has proved that the best way to insure an accused person a fair opportunity to defend himself when charged by the State is to impanel a jury to sit in judgment on him.

The full awareness of this truth at the time our country was founded is evidenced by the fact that the right of trial by jury is mentioned in four different passages of the Constitution.

Mr. President (Mr. PELL in the chair), the sixth amendment to the Constitution reads as follows:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

I do not believe there is any amendment or section of the whole Constitution more important to the rights of individuals in this great country. All great countries, small and large, for that matter, have always been and are still confronted with the problem of reconciling an organization of the State as such, and the giving of sufficient power to maintain its integrity with the preservation of the right of the individual. This is at the heart of the difficulties of every country and every society.

This particular amendment has been one of the principal reasons why this country, large as it is, and diverse as it is, has done such a good job throughout its history in preserving personal liberty and personal freedom, together with a government strong enough to maintain its integrity and its national security.

These two elements are in a sense always more or less in conflict. And while we have suffered some difficulties, when we compare our achievements with those of other countries—certainly other countries of any great size—our record has been very good.

The sixth amendment has contributed as much as anything I know of in the

Constitution to the achievement of a reasonably satisfactory result.

I ask, Senators, does anyone believe that that amendment should be lightly set aside by a play on words which amounts to saying that we now should give jurisdiction to a court of equity to enjoin all crime? If that be true, this amendment means nothing. If, as the bill attempts to do to a limited degree, we can turn the acts which have traditionally been considered crimes—and were considered crimes when this provision was written—into acts which may be enjoined, as the bill attempts to do, we shall have effectively negated the sixth amendment.

The seventh amendment to the Constitution provides as follows:

In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

It will be noted that that is the common law procedure governing civil cases, as contrasted with criminal prosecutions referred to in the sixth amendment. But it is quite remarkable to me that even down to the amount of \$20 the Constitution provides for the right of trial by jury. In other words, in a suit for \$21 or \$25, provision is made for the right of trial by jury. Of course, at the time this amendment was written, the dollar was worth much more than it is today. Nevertheless, the seventh amendment shows that even in civil actions involving matters as small as \$21, the Founding Fathers thought it important to provide the right of trial by jury.

The fifth amendment to the Constitution provides as follows:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Here again, the fifth amendment, which is so often cited as the source of individual rights in many cases, provides specifically for a grand jury, which, in a sense, is quite similar. It provides that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury." So we can see in another part of the Constitution how concerned the Founding Fathers were with the protection of the individual through the devices of the petit jury and the grand jury.

Article III, section 2, of the Constitution provides as follows:

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

We might well ask, Why was it that the provision, "The trial of all crimes, except in cases of impeachment, shall be by jury," was included? The Founding Fathers were still so concerned about the protection of individual rights that they reiterated, in effect, the provisions of the sixth and seventh amendments. It shows again how extremely important, how fundamental to our liberties, the Founding Fathers—some of the wisest men it has ever been our good fortune to have in this country—considered trial by jury to be.

Thus, in four different places in the Constitution and the Bill of Rights we find a specific guarantee of the right to trial by jury. In four places in the Constitution, the Founding Fathers sought to insure and retain the right to trial by jury, which right would most certainly be impaired in the most drastic way if the proposed legislation now before the Senate were not amended by the pending proposal offered by the junior Senator from Georgia.

It is to be recognized, Mr. President, that the Long amendment to the Talmadge amendment covers only cases arising under the provisions of the pending legislation. I suppose it will be said that the Talmadge amendment is too extensive, that the protection it would afford is too broad. We are, of course, dealing with the content of H.R. 7152. Perhaps it is proper at this point for the Senate to deal only with the question of criminal contempts arising under this bill. However, Mr. President, it strikes me that as we are considering a civil rights bill those in support of this proposed legislation should be enthusiastic at the prospect of rectifying a long-standing deficiency in our criminal jurisprudence, a deficiency which exempts from the protections of the jury system defendants charged with criminal contempt of Federal court orders although they may suffer the same punishments as those indicated by a grand jury and adjudged guilty of such indictment by a petit jury.

Those who wrote the sixth amendment specified that all criminal prosecutions should carry the right to a speedy and public trial. Article III, section 2, says the trial of all crimes, except in cases of impeachment, shall be by jury. These are not qualified statements but declarations of a right considered by our Founding Fathers to be absolutely inviolate.

Let me hasten to say that I am well aware of the decision in the Barnett case where five Justices clung to the proposition that criminal contempt cases are somehow to be distinguished from crimes generally. The logic of this conclusion is hard for me to accept as, indeed, it was difficult for the four dissenting Justices who would have recognized not only a statutory but also a constitutional right to a jury trial on the part of the former Governor of Mississippi, the defendant in the case. Mr. Justice Goldberg and Mr. Justice Black wrote what I believe are truly outstanding dissenting opinions in the case. One passage of Mr. Justice Goldberg's dissent is, I believe, quite pertinent to the establishment of a con-

stitutional guarantee in contempt cases and I would like to quote it for the Senate.

There is no question, Mr. President, as to what the law is. The ruling in the Barnett case is the law and it will be followed by inferior courts in the Federal system until such time as the Congress or the Court alters it. It is my personal belief that this issue will be confronted again by the Court and that the Barnett doctrine will be reversed. I feel confident that a majority of the Court will soon recognize that the constitutional provisions which I have recited contemplate all cases where criminal penalties are prescribed. If a conflict exists between the power of a court to maintain respect for its orders and the rights of an individual charged with such disrespect, I believe the Senate must opt for the individual and ultimately must also the court.

Mr. President, to place the amendment under discussion in proper context, I believe it would be helpful to the Senate to consider the Federal statutes now on the books relating to criminal contempt proceedings. Section 401 of title 18 of the United States Code provides:

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

1. Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;
2. Misbehavior of any of its officers in their official transactions;
3. Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

Section 402 reads as follows:

Any person, corporation, or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of 6 months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

Section 3691 of the same title, referred to in section 402, provides:

Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by